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STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

June 23, 2006

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.:05KD-125

Kauai

Sale of Remnant to Jensen of Hawaii, Inc., Kapaa, Kawaihau,
Kauai, Tax Map Key: (4) 4-6-039: Ditch No. 9.

APPLICANT:

Jensen of Hawaii, Inc., whose business and mailing address is
4-1191 Kuhio Hwy., Kapaa, HI 96746.

LEGAL REFERENCE:

Section 171-52, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands of Kapaa situated at Kapaa, Kawaihau,
Kauai, identified by Tax Map Key: (4) 4-6-039:Ditch No. 9, as
shown on the attached map labeled Exhibit A.

AREA:

2,685 square feet, more or less.

ZONING:

State Land Use District:	Urban
County of Kauai CZO:	Residential

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State
Constitution: NO

CURRENT USE STATUS:

Vacant and unencumbered.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with the "Division of Land Management's Environmental Impact Statement Exemption List", approved by the Environmental Council and dated April 28, 1986, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing."

DCCA VERIFICATION:

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Pay for an appraisal to determine the one-time payment of fair market value for the remnant;
- 2) Consolidate the remnant with the Applicant's abutting property through the County subdivision process;
- 3) Provide survey maps and descriptions according to State DAGS standards and at Applicant's own cost; and
- 4) Provide drainage study and construction drawing approved by the County of Kauai, Public Works Department.

REMARKS:

Pursuant to section 171-52, HRS, a remnant is defined as "a parcel of land economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics." The subject parcel has been determined to be a remnant by this definition for the following reasons:

This portion of Ditch No. 9 formerly under General Lease S-3827 to East Kauai Water Company, formerly AMFAC, Lihue Plantation Company which expired on May 1995.

The Board on January 11, 2002 under Item D-29 approved the issuance of a Revocable Permit S-7310 to East Kauai Water Users Cooperative. Under this permit, the Lower Kapahi Reservoir and related conduits were not included. Ditch No. 9 is part of the Lower Kapahi Reservoir. Puu Kaa and Awa'a Subdivision diverts its run-off into Ditch No. 9. Jensen of Hawaii, Inc. will need to cross Ditch No. 9 to access Kawaihau Road. They are willing to install a closed drainage system, as a requirement set by the County of Kauai, Department of Public Works.

Applicant is the owner of parcel (4)4-6-039:029 as staff has confirmed by County of Kauai, Real Property Assessment website.

Applicant has not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

Agency comments were solicited and no objections received from County of Kauai, Planning Department and Department of Water. DLNR - Historic Preservation found no historic properties will be affected. No response received from DHHL and OHA.

County of Kauai, Department of Public Works did not recommend the sale of Ditch No. 9 due to drainage concerns. Applicant resolved Public Works concerns and a follow-up letter from County of Kauai, Department of Public Works, dated April 12, 2006 stated that they have no objections to the sale selling Ditch No. 9, provided that the new owner allows and accepts the storm flows and consequence and maintenance of the drainage flows. (Exhibit B) Based on this, staff is recommending a condition be placed within the land conveyance document that the owner accepts full responsibility.

RECOMMENDATION:

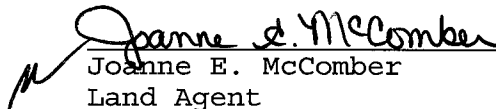
That the Board:

1. Find that the subject lands are economically or physically unsuitable or undesirable for development or utilization as a separate unit by reason of location, size, shape, or other characteristics and, therefore, by definition is a remnant pursuant to Chapter 171, HRS.
2. Authorize the subject requests to be applicable in the event of a change in the ownership of the abutting parcel described as Tax Map Key: (4)4-6-039:029, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal


or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.

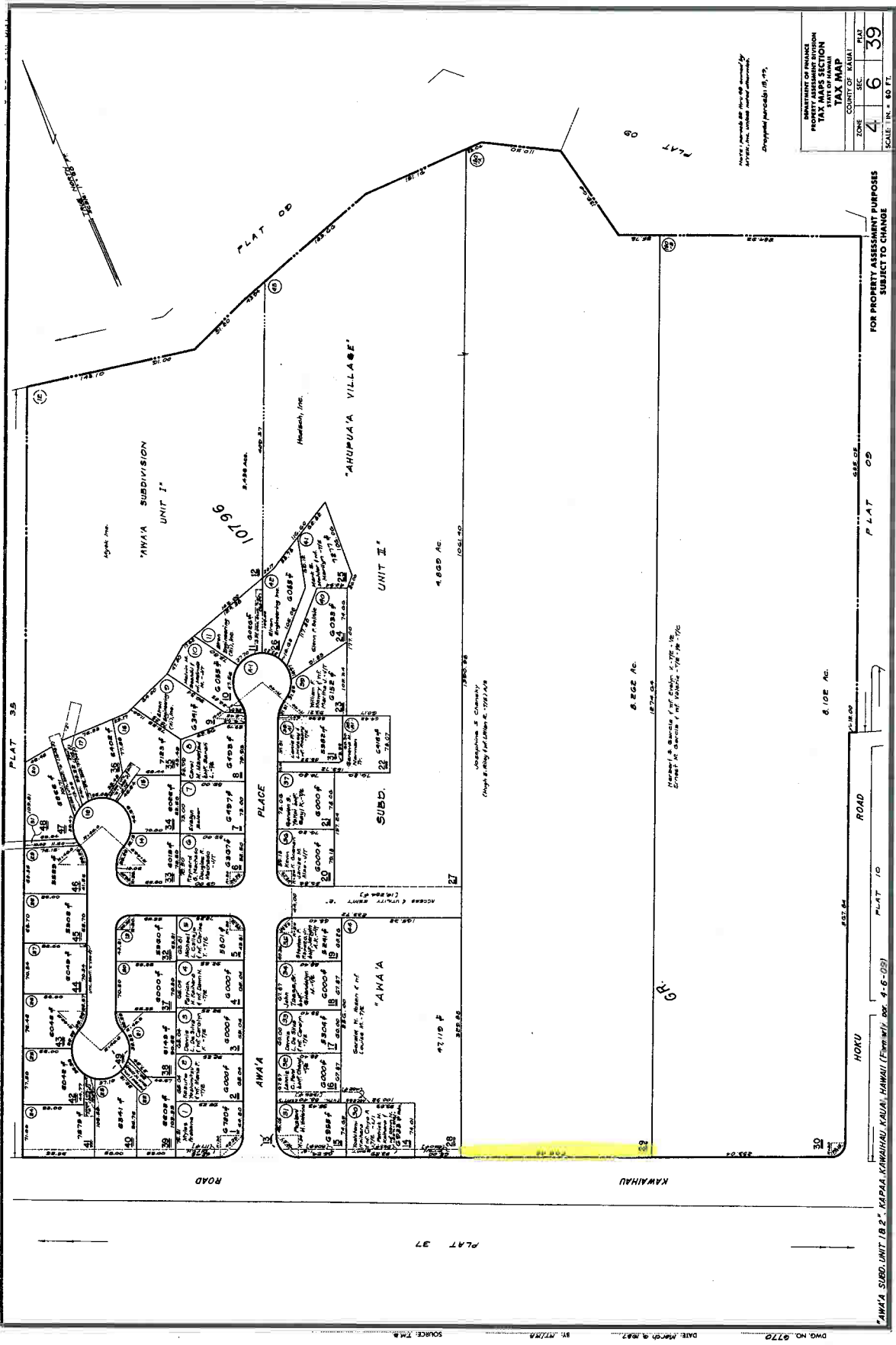
4. Authorize the subdivision and consolidation of the subject remnant by the Applicant.
5. Subject to the Applicant fulfilling all of the Applicant Requirements listed above, authorize the sale of the subject remnant to Jensen of Hawaii, Inc. covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - a. The standard terms and conditions of the most current deed or grant (remnant) form, as may be amended from time to time;
 - b. Review and approval by the Department of the Attorney General; and
 - c. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
 - d. The new owner allows and accepts the storm flows and consequence and maintenance of the drainage system.

Respectfully Submitted,


Joanne E. McComber
Land Agent

APPROVED FOR SUBMITTAL:


Peter T. Young, Chairperson



"Exhibit A"

DEPARTMENT OF FINANCE PROPERTY TAX DIVISION TAX MAP SECTION STATE OF HAWAII			
COUNTY OF MAUI		TAX MAP	
ZONE	4	6	39
SCALE: 1" = 60 FT.			

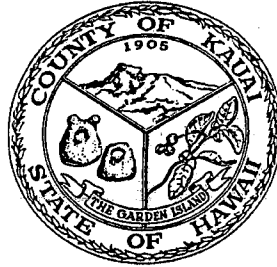
NOT TO SCALE
DRAFTED: 10/1/75

BRYAN J. BAPTISTE
MAYOR

DONALD M. FUJIMOTO
COUNTY ENGINEER
TELEPHONE 241-6600

GARY K. HEU
ADMINISTRATIVE ASSISTANT

LADYE H. MARTIN
DEPUTY COUNTY ENGINEER
TELEPHONE 241-6600



AN EQUAL OPPORTUNITY EMPLOYER
COUNTY OF KAUA'I
DEPARTMENT OF PUBLIC WORKS
4444 RICE STREET
MO'IKEHA BUILDING, SUITE 275
LIHU'E, KAUA'I, HAWAII 96766-1340

April 12, 2006

State of Hawai'i
Department of Land and Natural Resources
Land Division
3060 Eiwa Street, Room 306
Lihu'e, HI 96766
ATTENTION: Mr. Thomas Oi

**SUBJECT: REQUEST TO PURCHASE ABANDONED DITCH RIGHT OF WAY FOR
ACCESS & UTILITY PURPOSES, TMK: 4-6-39: DITCH ALONG
KAWAIHAU ROAD ON PARCEL 29, AWA'A SUBD, UNITS 1 & 2 KAPA'A,
KAWAIHAU, KAUA'I REF. NO. 05KD-125**

GENTLEMEN:

This is a follow-up to the subject request. We have no objections to the subject request to purchase the abandoned ditch right of way provided that the new owner allows and accepts the storm flows and consequence and maintenance of the drainage flows.

Should you have any questions, please contact me at (808) 241-6498.

Very truly yours,

CONCUR:

Wallace Kudo, P.E.
Chief, Engineering Division

DONALD M. FUJIMOTO, P.E.
County Engineer

PM1:16:31

APR 13 '06

WK

cc: Planning Department
S-2005-3
Chris Jensen, Jensen of Hawaii, Inc.

DLNR KDLO RCVD

"Exhibit B"